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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/243,108	02/02/1999	JUDITH E. SCHWABE	SUN-P3730	2013

7590 05/04/2004

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EXAMINER

CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplementary
Notice of Allowability**

Application N .

09/243,108

Examiner

John Chavis

Applicant(s)

SCHWABE ET AL.

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1-20-04.
2. ☒ The allowed claim(s) is/are 1-5,7-10,12-32,34-37,39-59,61-64 and 66-81.
3. ☒ The drawings filed on 05 December 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 34
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/243,108	SCHWABE ET AL.	
	Examiner	Art Unit	
	John Chavis	2124	

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1. ☒ The amendment filed on 20 January 2004 under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☒ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

The notice of allowance was mailed on January 13, 2004; however, the amendment to add related applications to the specifications, which the applicant considers pertinent was not filed until January 20, 2004 (after prosecution was closed on this application). Furthermore, the initial application was filed on February 2, 1999 and it is not clear why it took nearly 5 years to determine that other applications were considered to be related. The applicant is again hereby reminded of his duty to disclose (rule 1.56); however, the requested additions to the specifications are not considered to be directed to matters of form not affecting the scope of the invention. The features are considered to be new matter; since, it was not presented earlier and therefore, it will not be entered.

The applicant filed multiple IDS statements (1-15-04, 1-20-04; 2-9-04 and 3-11-04) after the notice of allowance was mailed. Also, the applicant is hereby reminded of the procedure for filing an IDS. According to rule 1.97 (c) and (e), the applicant must provide a statement that the applicant was not aware of the prior art references more than 3 months prior to filing and according to rule 1.98 (3) (i), the applicant must provide a concise explanation of relevance of each reference. Since, the IDS requirements have not been met and the amendment to specifications is considered new matter, the prior art is not considered and the amendment to the specifications will not be made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est. M, T, Th & F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.

Jqc
April 7, 2004



JOHN CHAVIS
PATENT EXAMINER
ART UNIT 2124